

1 JAMES P. SWANSEEN, ESQ.
2 Attorney at Law
3 (State Bar No. 159918)
4 43 Dowitcher Way
5 San Rafael, CA 94901
6 (415) 571-6403 (tel)

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RICHARD W. HARRIS
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10

11 In the Matter of) CASE NO. CV0780288
12)
13 JAMES P. SWANSEEN) RESPONSE TO ORDER TO SHOW CAUSE
14 (SBN 159918),)
15 Respondent.)

16 I, JAMES P. SWANSEEN, the respondent herein, submit the
17 following as grounds for why I should not be suspended from the
18 practice of law before this Court:

19 1. I have been licensed to practice law in California since
20 1993.

21 2. I am also licensed to practice law in Colorado,
22 Minnesota, and New Jersey, and I have been practicing law since
23 1975.

24 3. In those 33 years, I have never previously been
25 suspended from practicing law, nor have I ever had a grievance
26 filed against me.

27 4. By order of the State Bar Court, I was suspended from
28 practice for 60 days, commencing October 5, 2007, and ending

1 December 5, 2007. I was also placed on three years' probation.
2 See the Order of State Bar Court, dated September 5, 2007, attached
3 hereto as Exhibit A.

4 5. I was also required to pay \$8,000.00 in costs imposed by
5 the State Bar and was to remain suspended until they were paid in
6 full.

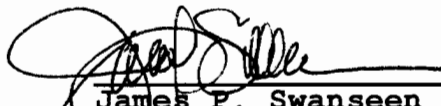
7 6. I was unable to pay these costs and filed the Motion for
8 Relief from or Extension of Time to Pay Disciplinary Costs
9 attached hereto as Exhibit B. The State Bar Court granted my
10 motion on December 21, 2007.

11 7. I have been suspended, have been through drug treatment,
12 and will be on probation for three years by order of the
13 California State Bar. I feel that any further sanctions by this
14 Court will be both duplicative and unnecessary.

15 WHEREFORE, I respectfully request that this honorable court
16 impose no further sanctions on this respondent.

17 Respectfully submitted,

18
19 Dated: 1/29/08


James P. Swanseen

20
21
22 DECLARATION OF JAMES P. SWANSEEN

23 1. I am an attorney at law, licensed to practice in the
24 State of California. My state bar number is 159918.

25 2. All the facts set forth in the foregoing Response to
26 Order to Show Cause are true and correct and are within my own
27 personal knowledge; if called upon to testify hereto, I would
28 truthfully and competently do so.

1 I declare under penalty of perjury under the laws of the
2 State of California that the foregoing is true and correct.

3
4 Dated: January 26, 2008


James P. Swanseen

(State Bar Court Case No. 04-C-10238; 04-C-10513; 05-C-02624; 06-O-12003
(06-O-13269) Cons.

S154333

IN THE SUPREME COURT OF CALIFORNIA

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SUPREME COURT
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Frederick K. Ohlrich Clerk

DEPUTY

IN RE JAMES P. SWANSEEN ON DISCIPLINE

It is ordered that **JAMES P. SWANSEEN, State Bar No. 159918**, be suspended from the practice of law for two years, that execution of suspension be stayed, and that he be placed on probation for three years on condition that he be actually suspended for 60 days. Respondent is also ordered to comply with the other conditions of probation, including restitution, recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed May 3, 2007. If respondent is actually suspended for two years or more, he must remain actually suspended until he provides proof to the satisfaction of the State Bar Court of rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct. It is further ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

I, Frederick K. Ohlrich, Clerk of the Supreme Court
of the State of California, do hereby certify that the
preceding is a true copy of an order of this Court as
shown by the records of my office.

Witness my hand and the seal of the Court this

5 day of September 20 07

By: *[Signature]*
Deputy

GEORGE

Chief Justice

10/3

1 JAMES P. SWANSEEN, ESQ.
2 Attorney at Law
3 (State Bar No. 159918)
4 43 Dowitcher Way
5 San Rafael, CA 94901
6 (415) 571-6403 (tel)

FILED

DEC 14 2007

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

RECEIVED

DEC 14 2007

STATE BAR COURT
SAN FRANCISCO

STATE BAR COURT

SAN FRANCISCO, CALIFORNIA

In the Matter of	)	CASE NOS. 04-C-10238,
	)	04-C-10513, 05-C-02624, AND
JAMES P. SWANSEEN	)	06-0-12003 (AND 06-0-13269)
(SBN 159918),)	
	)	MOTION FOR RELIEF FROM OR
A Member of the	)	EXTENSION OF TIME TO PAY
State Bar.	)	DISCIPLINARY COSTS; DECLARATION
	)	OF JAMES P. SWANSEEN; ORDER
	)	[Cal Bar Rule 282]

17 I, JAMES P. SWANSEEN, respectfully move the State Bar Court
18 pursuant to Rules of Procedure Rule 282 for relief in whole or in
19 part from the order assessing disciplinary costs or, in the
20 alternative, for an extension of time to pay disciplinary costs.

21 As good cause for the requested relief, I submit the
22 following:

23 1. I am an attorney licensed to practice in California
24 under State Bar No. 159918.

25 2. I have been licensed to practice law in New Jersey,
26 Minnesota, and Colorado as well as in California.

27 3. I have been practicing law for 32 years.

28 4. The matters for which I am being disciplined under the

1 above-numbered cases are the only disciplinary proceedings that
2 have ever been lodged against me during my 32 years of practice.

3 5. At approximately the time the disciplinary matters
4 arose, my mother suffered a series of physical conditions which
5 ultimately required me to leave my office and home of ten years to
6 move to my sister's residence to assist in providing 24/7 care for
7 my mother.

8 6. Based upon providing this care for my mother, my
9 practice of law was greatly diminished and my income reduced
10 substantially.

11 7. My mother's death in April 2007 nearly coincided with
12 the stipulation for disciplinary action in this case and resulted
13 in my 60-day suspension starting October 5, 2007, and ending
14 December 5, 2007.

15 8. My limited ability to practice law while providing care
16 for my mother, the expenses surrounding her illness and death, and
17 the income restrictions placed upon me as a result of the
18 disciplinary action by the State Bar Court have left me in a
19 financial condition where I presently have no assets and no
20 income.

21 9. If the State Bar Court does not grant me relief in whole
22 or in part from the order assessing those costs, or does not grant
23 me an extension of time to pay those costs, the order as it now
24 stands will become, in effect, an actual suspension of my license
25 to practice law, as I am unable to meet those disciplinary costs
26 at this time.

27 10. Filed contemporaneously with this motion is a Financial
28 Declaration in Support of Motion for Relief from or Extension of

1 Time to Pay Disciplinary Costs.

2 Based upon the foregoing, I respectfully request that the
3 State Bar Court grant the relief requested, and such other and
4 further relief as it deems necessary and proper.

5 Respectfully submitted,

6 Dated: December 13, 2007

7 
James P. Swanseen

8
9 DECLARATION OF JAMES P. SWANSEEN

10 1. I am an attorney at law, licensed to practice in the
11 State of California. My state bar number is 159918.

12 2. All the facts set forth in the foregoing Motion for
13 Relief from or Extension of Time to Pay Disciplinary Costs are
14 true and correct and are within my own personal knowledge; if
15 called upon to testify hereto, I would truthfully and competently
16 do so.

17 I declare under penalty of perjury under the laws of the
18 State of California that the foregoing is true and correct.

19
20 Dated: December 13, 2007

21 
James P. Swanseen

FILED

DEC 21 2007

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCOSTATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of	)	Case Nos. 04-C-10238; 04-C-10513;
	)	05-C-02624; 06-O-12003;
JAMES P. SWANSEEN,	)	& 06-O-13269
)	
Member No. 159918,	)	ORDER GRANTING EXTENSION OF
	)	TIME IN WHICH TO PAY
A Member of the State Bar.	)	DISCIPLINARY COSTS
)	
	)	(Rules Proc. of State Bar, rule 282)

TO ALL PARTIES AND COUNSEL IN THE ABOVE ENTITLED MATTER:

On December 14, 2007, respondent James P. Swanseen (Swanseen) filed a Motion for Relief From Or Extension Of Time to Pay Disciplinary Costs in the above-entitled State Bar Court consolidated case (Supreme Court case No. 154333). (Rules Proc. of State Bar, rule 282.) Respondent submitted a financial statement in support of his motion for relief based on financial hardship. (Rules Proc. of State Bar, rule 282(b)(2).)

On December 18, 2007, the Office of the Chief Trial Counsel of the State Bar of California (State Bar) filed a response opposing any reduction in costs. The State Bar, however, did not oppose extending the time for respondent to pay the costs, by dividing them into two equal payments to be added to respondent's dues in 2009 and 2010.

After carefully considering all issues set forth in the pleadings submitted by respondent and the State Bar and the evidence provided therewith, the court finds that Swanseen has demonstrated financial hardship. Accordingly, the court **GRANTS** respondent's motion to extend the time to pay disciplinary costs and **DENIES** his motion for reduction in costs.

In view of respondent's financial hardship and good cause appearing, the court **ORDERS** respondent to pay the disciplinary costs in five equal installments along with his membership fees commencing with the 2009 billing cycle. In accordance with Business and Professions Code section

6086.10, one-fifth of the disciplinary costs must be paid with respondent's fees for the years 2009, 2010, 2011, 2012, and 2013. It is further ordered that if respondent fails to pay any installment of disciplinary costs within the time provided herein or as may be modified by the State Bar Court pursuant to section 6086.10, subdivision (c), the remaining balance of the costs is due and payable immediately unless relief has been granted under the Rules of Procedure of the State Bar of California (Rules Proc. of the State Bar, rule 286). The payment of costs is enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

IT IS SO ORDERED.

Dated: December 21, 2007


PAT McELROY
Judge of the State Bar Court